Supreme Court, U.S.
FILED
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No. A 94-651

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1994

EXPORTADORA DE SAL, S.A. DE C.V.,

Petitioner,

vs.

HIROKO SUGIMOTO, et al.,

Respondents

On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Ninth Circuit

APPENDIX TO RESPONDENTS' SUPPLEMENTAL BRIEF IN REPLY TO BRIEF OF AMICUS CURIAE UNITED MEXICAN STATES AT THE PETITION STAGE

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33 pp

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DOREEN S. SCHOENBERG, et al.,	) CA No. 89-55973) CA No. 90-55073) Consolidated
Plaintiffs-Appellees	) DC Consolidated Cases) Civil 88-1530 R (IEG)
vs.	) 88-1531 R (IEG)) 88-1532 R (IEG)
EXPORTADORA DE SAL, S.A. DE C.V.,	) 88-1919 R (IEG)) 88-1920 R (IEG)
Defendant-Appellant.	)

Honorable William C. Canby, Circuit Judge
Honorable Pamela A. Rymer, Circuit Judge
Honorable David F. Levy, District Judge

Excerpt of Recorder's Transcript of Proceedings

Pasadena, California

Wednesday, March 6, 1991

Appearances:

For Defendant-Appellant Exportadora De Sal, S.A. De C.V.:

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John Stephens, Esq. (Argued)
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530 "B" Street, Suite 1700
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For Plaintiffs-Appellees:

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Robin E. Foor, Esq. (Argued)
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(RT 7:23 - 8:12)

* * * *

THE COURT (JUDGE RYMER): I think the District Judge's finding was that they were requested to do it, and they did it.

MR. STEPHENS: Well, I think he also - -

THE COURT (JUDGE RYMER): There is a slight difference.

MR. STEPHENS: There's a request - - I think there's a distinction simply between instruction and request, but my reading is that - - and I would have to go back through his opinion again, that he used the word instructed.

But there's one other point that I think should be made, and it's unfortunate that it comes up at the time that it does. *I have recently come into possession of an official diary from the Mexican government. It's I think the equivalent of a federal register or Congressional digest, but in any event it does refer to what is intended between Mexico and Japan, and I would be happy to get this to the Court with an official translation, but I couldn't do it under the circumstances existing at the time that I received it because the time was inappropriate.*

* * * *

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[Filed June 27, 1991]

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

DOREEN S. SCHOENBERG, et al.,	Consolidated Civil No. 88-1530 R(IEG) 88-1531 R(IEG) 88-1532 R(IEG) 88-1919 R(IEG) 88-1920 R(IEG)
Plaintiffs,	
vs.	
EXPORTADORA DE SAL, S.A. DE C.V., et al.,	**THIRD REQUEST FOR PRODUCTION OF DOCUMENTS FROM EXPORTADORA DE SAL, S.A. DE C.V.**
Defendants.	

Propounding Parties: Plaintiffs DOREEN SCHOENBERG, et al.
Responding Party: Defendant EXPORTADORA DE SAL, S.A. DE C.V., et al. ("Exportadora")
Set: Three

TO DEFENDANT EXPORTADORA DE SAL, S.A. DE C.V. AND ITS ATTORNEYS OF RECORD:

You are hereby requested, pursuant to Rule 34 of the Federal Rules of Civil Procedure, to produce for inspection and copying at the offices of Exportadora, Avenida Baja California S/N, Guerrero Negro, B.C.S., Mexico 23940, on a date to be set by the courts of Mexico pursuant to Letters of Request under the Hague Convention, or within a reasonable time after the service of this request for documents under Rule 34, at 9:30 a.m., the documents described in this request. If you fail to produce these documents in Guerrero Negro, Mexico by August 16, 1991, you are requested to produce these documents at the offices of Alexander & Sauner, 610 West Ash Street, Suite 1006, San Diego, CA 92101 on August 19, 1991 at 9:30 a.m.

You are further required to serve upon plaintiffs, pursuant to Rule 34 of the Federal Rules of Civil Procedure, not later than 30 days after the service of this request, a written response as required by Rule 34(b). The response must contain, for each of the categories listed in this request, a statement that inspection and related activities will be permitted as requested, unless the request is objected to, in which case the specific reasons for each objection shall be stated.

If any document described in this request was, but no longer is in your possession, or subject to your custody or control, or in existence, state whether: 1) it is missing or

lost; 2) it has been destroyed; 3) it has been transferred voluntarily or involuntarily to others; or 4) it has been disposed of otherwise. In each instance, explain the circumstances surrounding such disposition and identify the person(s) authorizing the same, and the date(s) of such authorization, loss, destruction, transfer and/or disposition. Identify each document by listing its author, his or her address, type of document (e.g., letter, memorandum, telegraph, photograph, tape recording, video tape, etc.), date, subject, present location(s), custodian(s), and state whether the document(s) or copies are still in existence.

If you object to the production of any documents because of the attorney-client privilege, the work-product doctrine, or any other privilege applicable to a document, identify each document for which the privilege is claimed and give the following information: (a) the name of the writer or initiator of each copy of the document; (b) the name of the recipient, addressee, or party to whom each copy of the document was sent, if any; (c) the date of each copy of the document, if any, or if no date appears on the document, an estimate thereof, indicated as an estimate; (d) a description of the document; and, (e) a statement of the basis of the claim of privilege.

DEFINITIONS AND INSTRUCTIONS

a. The word "document" is used in its broadest sense and means the original and any and all copies of any and all written, printed, typed, tape recorded, videotaped, electronically recorded, magnetically recorded or stored, or otherwise recorded, memorialized, or stored, however produced or reproduced, or every kind or description, in whatever form (including final and all draft versions) in your actual or constructive possession, custody or control, including, but not limited to, all writings, contracts,

policy statements, manuals, telephone messages, checks, correspondence, letters, telegrams, telexes, mailgrams, electronic messages, E-mail messages, computer network messages, minutes of any meetings, agendas, memorandums, interoffice communications, reports, studies, schedules, airplane flight schedules, forecasts, project analyses, working papers, charts, expense account reports, ledgers, journals, financial statements, statements of account, calendars, appointment books, diaries, drawings, drafts, photographs, sound recordings, tape recordings, videotapes, electronic recordings, magnetic recordings or magnetic storage (including computer media of floppy disks or hard disks or tapes), computer logs, computer print outs, computer documents, or any other tangible tning which constitutes, contains or pertains to matters within the scope of Rule 1001 of the Federal Rules of Evidence. The term "document" also means originals, duplicates, and copies of all of the above upon which notations in writing, print or otherwise have been made which do not appear on the originals.

b. The following categories each include all attachments to the specifically described documents, and all envelopes, explanatory notes or memorandums, and all material that accompanied the document. If the specific document elicited a response, that response is included in the category. If the document itself is was a response, the document to which it is responding is included in the category.

c. The singular shall be deemed to include the plural, and vice versa so as to bring within the scope of this request all documents which might otherwise be construed to be outside its scope.

d. All documents shall be segregated in accordance

with the numbered paragraphs herein.

e. "Subject aircraft" refers to that certain Cessna 340A, Mexican Registration No. XA-KOA, Serial No. 978, which crashed near the U.S. - Mexican border, in San Diego County, California on September 30, 1987.

f. The time for which responses are requested is January 1, 1985 to the date of your response to this request, unless otherwise indicated.

CATEGORIES OF DOCUMENTS

1. Documents pertaining to Japanese individuals traveling to Mexico from March 1, 1987 through December 31, 1987, including:

(a) the inter-company account between Exportadora and Mitsubishi Corp. or any of its subsidiary or related companies (collectively "Mitsubishi" herein);

(b) hotel reservations;

(c) Exportadora's account with the Westgate Hotel;

(d) travel plans, providing of transportation for, or providing of accommodations for, Japanese individuals traveling to Mexico;

(e) telex messages.

2. Documents pertaining to communications with Mitsubishi about the sponsorship of the agricultural project (the "agricultural project"), including communications about transportation or accommodations for the Japanese passengers, whose survivors are the plaintiffs, from January 1, 1987 through December 31, 1987.

3. Documents pertaining to the purchasing by Exportadora of pumps, pump parts, maintenance and services from Prime Pump Company ("Prime Pump") from

January 1, 1987 to date, including invoices, purchase orders and communications about purchasing.

4. Documents concerning the travel arrangements, if any, and accommodations, if any, for each passenger for their trip from San Diego to Guerrero Negro, and from Guerrero Negro to San Diego, in September 1987, including documents received by Exportadora, documents created by Exportadora, and documents requesting that transportation be provided to the passengers.

5. Documents concerning meetings, if any, between each of the passengers and employees of Exportadora.

6. Documents that pertain to any assistance by the government of Mexico to the agricultural project.

7. Documents pertaining to any request and/or instruction by the government of Mexico to Exportadora to assist the agricultural project, including documents pertaining to any request and/or instruction to Exportadora to provide transportation or accommodations to people traveling to the agricultural project.

8. Documents pertaining to reimbursement paid to Exportadora for Exportadora's assistance to the agricultural project.

9. Documents concerning the purposes of the agricultural project.

10. Documents concerning the charter agreement between Exportadora and the charter air company, Aviones De Sonora, S.A. (herein "Aviones"), and communications with the charter air carrier pertaining to the flight, for the flight of September 30, 1987.

11. Documents concerning items sent by Exportadora on the chartered airplane on the morning of September 30, 1987.

12. Documents concerning refueling, if any, of the airplane at Guerrero Negro.

13. Documents concerning the reason the Exportadora airplane was sent to Mexico City and was not available for the flight on the morning of September 30, 1987.

14. Documents concerning communications to the passengers that a chartered airplane would be used for the return flight to Tijuana instead of the Exportadora corporate airplane.

15. Documents concerning the weather on the night of September 29, 1987 in Guerrero Negro, and the location of the chartered airplane during the night of September 29, 1987.

16. Documents concerning information about the weather in Tijuana obtained by the pilot in Guerrero Negro the morning of September 30, 1987.

17. Documents concerning preflight instructions, if any, from Exportadora to the pilot of the chartered airplane.

18. Photographs of the chartered airplane on the morning of September 30, 1987 before it departed Guerrero Negro.

19. Documents pertaining to the airplane accident,

including photographs of the scene of the accident in San Diego.

20. Documents concerning the removal by Exportadora of the San Diego office of Exportadora from the State of California, including documents concerning the reorganization of the operations of the San Diego office.

21. Documents concerning the home addresses, telephone numbers, and current employers of the following former employees of the Exportadora San Diego office:

(a) Victor Garcia,
(b) Alicia Gasteleum,
(c) Alejandro Bremer,
(d) Cipriano (warehouseman),
(e) Jesus (warehouseman).

22. Documents concerning agents, consultants, subsidiaries and affiliates employed by Exportadora in the State of California.

23. Documents concerning Exportadora's insurance policies for transportation accidents in September 1987, including insurance policies for Exportadora's own airplane.

Dated: June 21, 1991
Belmont, California

__/s/_____
Robin E. Foor
Attorneys for Plaintiffs

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[Filed November 21, 1991]

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

DOREEN S. SCHOENBERG, et al., Plaintiffs, vs. EXPORTADORA DE SAL, S.A. DE C.V., et al., Defendants.	Consolidated Civil No. 88-1530 R (P) 88-1531 R (P) 88-1532 R (P) 88-1919 R (P) 88-1920 R (P) **ORDER VACATING PROTECTIVE ORDER AND COMPELLING DEPOSITIONS AND PRODUCTION OF DOCUMENTS FROM EXPORTADORA** Date: November 19, 1991 Time: 8:30 a.m. Place: Courtroom 12 Honorable Louisa S. Porter

The plaintiffs' motion to vacate protective order, to

compel attendance at depositions and to compel production of documents came on for a hearing on November 19, 1991 in the above-entitled court, the Honorable Louisa S. Porter presiding. Considering the motion, the materials in support, the opposition, the reply, and the arguments of counsel, the court finds that:

1. There is good cause to vacate the prior protective order.

2. The Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, opened for signature, March 18, 1970, 23 U.S.T. 2555, T.I.A.S. No. 7444 (the "Hague Evidence Convention") is a permissive supplement to the Federal Rules of Civil Procedure, not a replacement for the Federal Rules. The case of Societe Nationale Industrielle Aerospatiale v. United States District Court, 482 U.S. 522, 544, 96 L.ed.2d 461, 484, 107 S.Ct. 2542 (1987) sets forth a three-part test of whether to resort to the procedures of the Hague Evidence Convention, requiring " . . . scrutiny in each case of the particular facts, sovereign interests, and likelihood that resort to these procedures will prove effective."

3. In the present case, resort to the procedures of the Hague Evidence Convention has proven to be ineffective for discovery in Mexico. The protective order issued in this case required that depositions in Mexico under the procedures of the Hague Evidence Convention be conducted on oral examination, governed by the Federal Rules of Civil Procedure of the United States of America. The recent deposition taken in Hermosillo, Sonora, Mexico, was not governed by the Federal Rules of Civil Procedure. The experience of the parties to this case in attempting to take depositions in Hermosillo shows that the procedures of the Hague Evidence Convention are ineffective.

4. The San Diego area is a legitimate location for depositions in this case, considering the particular facts of

the case. The accident occurred in the San Diego area, some of the witnesses travel to the San Diego area frequently, and defendant Exportadora De Sal, S.A. De C.V. ("Exportadora") does business in San Diego. The Exportadora corporate jet travels regularly each week round-trip from Guerrero Negro to Tijuana, Mexico, near San Diego.

5. The United States Court of Appeals for the Ninth Circuit decided in this case that Exportadora was not engaged in public activity of a governmental nature, but was engaged in commercial activity. Schoenberg v. Exportadora De Sal, S.A. De C.V., 930 F.2d 777 (9th Cir. 1991).

6. Mexican law does not prohibit the taking of depositions from the employees of Exportadora, nor the production of documents from Exportadora, in this case. This case is a private matter under Mexican law, as decided by the opinion of the Ninth Circuit. Fed.R.Civ.P. 44.1.

7. Depositions and the production of documents from Exportadora in this case under the Federal Rules of Civil Procedure may take place either in San Diego or at the American Consulate in Tijuana, Baja California North, Mexico. Accordingly,

IT IS ORDERED, that:

1. The Modified Protective Order issued by this Court on June 18, 1990 is vacated;

2. Exportadora shall produce witnesses noticed for depositions either in San Diego, California or at the American Consulate in Tijuana, before December 16, 1991;

3. Exportadora shall produce the documents requested by plaintiffs either in San Diego, California or at the American Consulate in Tijuana, before December 16, 1991;

4. The depositions shall be on oral examination. The depositions and the production of documents shall proceed according to the Federal Rules of Civil Procedure, and the Federal Rules of Evidence, of the United States of America.

Dated: November , 1991
San Diego, California

/s/
Louisa S. Porter
United States Magistrate

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[Filed December 6, 1991]

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

DOREEN S. SCHOENBERG, et al.,	Consolidated Civil No. 88-1530 R (P)
	88-1531 R (P)
	88-1532 R (P)
	88-1919 R (P)
Plaintiffs,	88-1920 R (P)
vs.	**NOTICE OF TAKING THE DEPOSITIONS OF JUAN BREMER, ISAMU HINA, AND EXPORTADORA DE SAL, S.A. DE C.V.**
EXPORTADORA DE SAL, S.A. DE C.V., et al.,	
Defendants.	

TO DEFENDANTS AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT the plaintiffs will take the depositions of the following witnesses on the dates and times stated, pursuant to Rule 30 of the Federal Rules of Civil Procedure, at the offices of Greco & Traficante, 750 "B" Street, Suite 2740, San Diego, CA 92112-0670. The depositions will take place before a person authorized to administer oaths, and authorized to transcribe depositions, and shall continue from day to day, excluding weekends and holidays, until completed or continued.

Witness	Date and Time of Deposition
Exportadora De Sal, S.A. De C.V.	December 12, 1991 9:00 a.m.
Juan Bremer	December 13, 1991 9:00 a.m.
Isamu Hina	December 13, 1991 2:00 p.m.

Exportadora De Sal, S.A. De C.V. ("Exportadora") is required, under Rule 30(b)(6) of the Federal Rules of Civil Procedure, to designate a person or persons to testify concerning the following subjects:

(1) the travel arrangements for the passengers;
(2) the chartering of the airplane;
(3) the loading of the airplane;
(4) the preflight instructions to the pilot;
(5) the information given to the pilot about the weather; and,
(6) the agricultural project.

Exportadora is required, under Rule 30(b)(5) and

Rule 34 of the Federal Rules of Civil Procedure to produce the following categories of documents at the depositions:

1. Documents pertaining to Japanese individuals traveling to Mexico from March 1, 1987 through December 31, 1987, including:

(a) the inter-company account between Exportadora and Mitsubishi Corp. or any of its subsidiary or related companies (collectively "Mitsubishi" herein);

(b) hotel reservations;

(c) Exportadora's account with the Westgate Hotel;

(d) travel plans, providing of transportation for, or providing of accommodations for, Japanese individuals traveling to Mexico;

(e) telex messages.

2. Documents pertaining to communications with Mitsubishi about the sponsorship of the agricultural project (the "agricultural project"), including communications about transportation or accommodations for the Japanese passengers, whose survivors are the plaintiffs, from January 1, 1987 through December 31, 1987.

3. Documents pertaining to the purchasing by Exportadora of pumps, pump parts, maintenance and services from Prime Pump Company ("Prime Pump") from January 1, 1987 to date, including invoices, purchase orders and communications about purchasing.

4. Documents concerning the travel arrangements, if any, and accommodations, if any, for each passenger for their trip from San Diego to Guerrero Negro, and from Guerrero Negro to San Diego, in September 1987, including documents received by Exportadora, documents created by Exportadora, and documents requesting that transportation be provided to the passengers.

5. Documents concerning meetings, if any, between each of the passengers and employees of Exportadora.

6. Documents that pertain to any assistance by the government of Mexico to the agricultural project.

7. Documents pertaining to any request and/or instruction by the government of Mexico to Exportadora to assist the agricultural project, including documents pertaining to any request and/or instruction to Exportadora to provide transportation or accommodations to people traveling to the agricultural project.

8. Documents pertaining to reimbursement paid to Exportadora for Exportadora's assistance to the agricultural project.

9. Documents concerning the purposes of the agricultural project.

10. Documents concerning the charter agreement between Exportadora and the charter air company, Aviones De Sonora, S.A. (herein "Aviones"), and communications with the charter air carrier pertaining to the flight, for the flight of September 30, 1987.

11. Documents concerning items sent by Exportadora on the chartered airplane on the morning of September 30, 1987.

12. Documents concerning refueling, if any, of the airplane at Guerrero Negro.

13. Documents concerning the reason the Exportadora airplane was sent to Mexico City and was not available for the flight on the morning of September 30,

1987.

14. Documents concerning communications to the passengers that a chartered airplane would be used for the return flight to Tijuana instead of the Exportadora corporate airplane.

15. Documents concerning the weather on the night of September 29, 1987 in Guerrero Negro, and the location of the chartered airplane during the night of September 29, 1987.

16. Documents concerning information about the weather in Tijuana obtained by the pilot in Guerrero Negro the morning of September 30, 1987.

17. Documents concerning preflight instructions, if any, from Exportadora to the pilot of the chartered airplane.

18. Photographs of the chartered airplane on the morning of September 30, 1987 before it departed Guerrero Negro.

19. Documents pertaining to the airplane accident, including photographs of the scene of the accident in San Diego.

20. Documents concerning the removal by Exportadora of the San Diego office of Exportadora from the State of California, including documents concerning the reorganization of the operations of the San Diego office.

21. Documents concerning the home addresses, telephone numbers, and current employers of the following former employees of the Exportadora San Diego office:

(a) Victor Garcia,
(b) Alicia Gasteleum,
(c) Alejandro Bremer,
(d) Cipriano (warehouseman),
(e) Jesus (warehouseman).

22. Documents concerning agents, consultants, subsidiaries and affiliates employed by Exportadora in the State of California.

23. Documents concerning Exportadora's insurance policies for transportation accidents in September 1987, including insurance policies for Exportadora's own airplane.

Dated: December 4, 1991
Belmont, California

___/s/_____
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Attorneys for Plaintiffs

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[Filed January 15, 1992]

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

DOREEN S. SCHOENBERG, et al., Plaintiffs,	Consolidated Civil No. 88-1530R(P) 88-1531R(P) 88-1532R(P) 88-1919R(P) 88-1920R(P)
vs.	**ORDER COMPELLING DISCOVERY AND**
EXPORTADORA DE SAL, S.A. DE C.V., et al., Defendants.	**DETERMINING DISCOVERY SCHEDULING** Date: December 19, 1991 Time: 11:00 a.m. Place: Courtroom 12 Honorable Louisa S. Porter

A discovery conference was held to discuss discovery disputes, on December 19, 1991 at 11:00 a.m. in the above-entitled court, the Honorable Louisa S. Porter presiding. Considering the issues presented, good cause appearing,

IT IS ORDERED that:

1. This Court confirms the order of Judge Gonzalez of August 24, 1990.

2. Under the order of August 24, 1990, defendant Exportadora De Sal, S.A. De C.V. ("Exportadora") was compelled to produce:

"1. All documents pertaining to Japanese individuals traveling to Mexico from March 1, 1987 through December 31, 1987, including:

(a) the inter-company account between Exportadora and Mitsubishi Corp. or any of its subsidiary or related companies (collectively "Mitsubishi" herein);

(b) hotel reservations;

(c) Exportadora's account with the Westgate Hotel:

(d) travel plans, providing of transportation for, or providing accommodations for Japanese individuals traveling to Mexico;

(e) telex messages."

3. The law firm of Greco & Traficante, counsel of record for Exportadora, is ordered to diligently search for, and to produce by January 13, 1992, additional documents that have not been produced, responsive to the above-quoted language of the order of August 24, 1990, including, but not limited to:

(a) hotel reservations, hotel bills, and Exportadora's account with the Executive Hotel;

(b) passenger manifests, passenger lists, company airplane schedules, travel plans and telex messages;

(c) schedules for the company airplane to destinations other than Tijuana or Guerrero Negro, such as Mexico City;

(d) documents pertaining to a meeting of the Board of Directors of Exportadora on or about September 30, 1987.

4. Exportadora shall produce all documents pertaining to a meeting of the Board of Directors of Exportadora on or about September 30, 1987, including:

(a) schedules for the meeting, and notices sent to anyone concerning the meeting;

(b) schedules, passenger lists, and documents pertaining to travel on the company airplane, for travel to or from the city where the meeting was held, on or about the time of the meeting (September 22, 1987 through October 3, 1987);

(c) memoranda concerning the scheduling of the meeting, or travel to or from the city where the meeting was held;

(d) telexes or letters concerning the scheduling of the meeting, or travel to or from the city where the meeting was held;

(e) Exportadora need not produce the minutes of the meeting.

5. If the company airplane was sent to Mexico City on or about September 29, 1987 while a Board of Director's meeting was being held in Mexico City on or about that date, then the Court finds that plaintiffs have requested the foregoing documents in item 13 of the request for documents that accompanied the notice of taking the deposition of Juan Bremer of December 4, 1991.

6. Counsel for Exportadora shall produce the documents as stated in this order with delivery by overnight mail to plaintiffs by January 13, 1992. Counsel for Exportadora shall file a declaration with the Court by January 13, 1992, signed by an officer of Exportadora, stating that no

other documents have been found responsive to this order, following a diligent search of Exportadora's files.

7. If it is discovered after the filing of the declaration that other responsive documents, as to any category of documents in this order, have not been produced by Exportadora, this Court shall consider an order to show cause for sanctions, including issue sanctions, against Exportadora.

8. Counsel for Exportadora has stated that document 000047, dated Noviembre 2, 1987, is the only document pertaining to expenses associated with the accident and that it is also the document referred to by Ms. Gastelum in her deposition. Counsel for Exportadora shall file a declaration with the Court by January 13, 1992, signed by an officer of Exportadora, stating that document 000047 is the only document responsive to the request, and stating that after a diligent search no other documents have been found concerning reimbursement from Mitsubishi for the expenses of the accident.

9. Plaintiff's request to resume the deposition of Mr. Bremer is denied.

10. Plaintiffs may take the deposition of Mikiko Izumi on the subject of the declaration she has filed in support of Exportadora's motion for summary judgment.

11. Plaintiff's request to take the deposition of Enrique Achoy, by Exportadora producing Mr. Achoy, is denied. Exportadora does not employ or control Mr. Achoy. This denial is without prejudice to plaintiffs taking Mr. Achoy's deposition on an independent basis.

12. Exportadora may take the deposition of any witness who files a declaration in opposition to the motion for summary judgment, limited to new material stated in

the declaration.

13. Exportadora's request to again depose Mrs. Schoenberg and Mrs. Hernandez is denied.

14. Exportadora's request to depose the Japanese plaintiffs before December 30, 1991 is denied. This Court re-affirms Judge McCue's order of March 6, 1991. The depositions of the Japanese plaintiffs may not be taken until one week before the trial in the United States.

15. The parties shall designate their experts by December 30, 1991.

16. The depositions of experts shall be completed by January 15, 1992.

Dated: January 13, 1992
San Diego, California

__/s/_____
Louisa S. Porter
United States Magistrate

Approved as to form:
GRECO & TRAFICANTE

_/s/_____12-30-91_
Clyde Greco
Attorneys for Defendant
Exportadora De Sal, S.A. De C.V.

I, Lydia Coderre, a duly appointed translator for the Superior Court of California, County of San Diego, CERTIFY that I have translated the following document(s):

Re: DECREE OF PROMULGATION OF AGREEMENT ON TECHNICAL COOPERATION BETWEEN THE GOVERNMENT OF MEXICO AND THE GOVERNMENT OF JAPAN THE PREAMBLE AND ARTICLE XII

from the Spanish Language to the English Language and do CERTIFY that it is correct to the best of my ability and belief.

Lydia Coderre

LYDIA CODERRE
CERTIFIED SPANISH
INTERPRETER

November 15, 1994
Date

INTERPRETER'S CERTIFICATION RE: DOCUMENT TRANSLATION

DECREE of promulgation of the Agreement on Technical Cooperation between the Government of the United Mexican States and the Government of Japan, signed in the city of Tokyo the 2nd of December of 1986.

At margin a stamp with the National Shield which says: United Mexican States.- Presidency of the Republic.

MIGUEL DE LA MADRID II., President of the United Mexican States, to its habitants, makes known

By Plenipotentiaries duly authorized for the effect, was signed in the city of Tokyo on the 2nd day of the month of December of the year one thousand nine hundred eighty six the Agreement on Technical Cooperation between the Government of the United Mexican States and the Government of Japan, whose text and Spanish form are evident in the attached certified copy.

The above Agreement was approved by the Chamber of Senators of the H. Congress of the Union, the twenty second day of the month of October of the year of one thousand nine hundred eighty seven, according to Decree published in the Official Daily of the Federation of the ninth day of the month of December of the same year.

The exchange of notifications foreseen in Article XII of the Agreement was effected in the city of Tokyo, Japan the seventeenth day of the month of December of the year of one thousand nine hundred eighty seven and the twenty eighth day of the month of January of the year of one thousand nine hundred eighty eight.

Therefore, for its due observance, in compliance with that provided in the First Fraction of Article Eighty Nine of the

Political Constitution of the United Mexican States, the present Decree promulgated in the residence of the Federal Executive Power on the seventh day of the month of March of the year of one thousand nine hundred eighty eight.-Miguel de la Madrid II.-Rubric.-The Department of Foreign Relations. Bernardo Sepúlveda Amor.-Rubric.

The Attorney Alfonso de Rosenzweig Diaz, Assistant Secretary of Foreign Relations certifies:

That in the archives of this Department there exists one of the two originals of the Agreement on Technical Cooperation between the Government of the United Mexican States and the Government of Japan, signed in the city of Tokyo on the second day of the month of December of the year of one thousand nine hundred eighty six, whose text and Spanish form are the following:

ARTICLE XII

1. The present Agreement shall enter into effect on the date in which the Government of Japan receives written notification from the Government of the United Mexican States that it has complied with the necessary constitutional procedure to put it in practice.

2. The present Agreement shall have a validity of one year and shall be extended automatically each year for another period of equal duration unless one of the Governments has communicated to the other Government, in writing, six months beforehand its will to denounce.

IN WITNESS WHEREOF, the undersigned, duly authorized for this sign the present Agreement.

Executed in the city of Tokyo the second day of the month of December of the year of one thousand nine hundred eighty six in two copies, in the Spanish language and Japanese, both texts being equally valid.-By the Government of the Mexican United States, the Secretary of Foreign Relations, **Bernardo Sepúlveda Amor.**- Rubric.-By the Government of Japan, the Minister of Foreign Relations, Tadashi Kuranari.-Rubric.

The present is true and complete copy in Spanish of the Agreement on Technical Cooperation between the Government of the United Mexican States and the Government of Japan, signed in the city of Tokyo on the second day of the month of December of the year of one thousand nine hundred eighty six.

I issue the present, in eleven useful pages in Mexico City, Federal District, on the first day of the month of March of the year of one thousand nine hundred eighty eight for the purpose of incorporating it to the respective Decree of promulgation.-The

Assistant Secretary of Foreign Relations, Alfonso de Rosenzweig-Diaz.-Rubric.